

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

BRETT CHRISTIAN, FIREARMS POLICY COALITION,  
INC., and SECOND AMENDMENT FOUNDATION

Plaintiffs,

v.

STEVEN A. NIGRELLI, in his official capacity as  
Superintendent of the New York State Police, and JOHN J.  
FLYNN, in his official capacity as District Attorney for the  
County of Erie,

Defendants.

No. 22-cv-00695 (JLS)

**SUPPLEMENTAL DECLARATION OF RYAN L. BELKA**

RYAN L. BELKA, declares under penalty of perjury that the following is true and correct:

1. I am an Assistant Attorney General, of counsel to Letitia James, New York State Attorney General, and with my co-counsel James Thompson, I represent Defendant Steven A. Nigrelli, in his official capacity as Superintendent of the New York State Police (“Superintendent Nigrelli”), in this action.

2. I make this supplemental declaration in support of Defendant’s Supplemental Briefing in Support of Defendant’s Opposition to Plaintiff’s Motion for a Preliminary Injunction.

3. Attached as **Exhibit A** is a true and accurate copy of excerpts from Plaintiff’s deposition testimony taken under oath on November 16, 2022.

Dated: Buffalo, New York  
December 2, 2022

/s/ Ryan L. Belka  
RYAN L. BELKA

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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Plaintiffs,

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STEVEN A. NIGRELLI, in his official capacity as  
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FLYNN, in his official capacity as District Attorney for the  
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Defendants.

No. 22-cv-00695 (JLS)

**CERTIFICATE OF SERVICE**

I hereby certify that on December 2, 2022, I electronically filed the foregoing with the Clerk of the District Court using its CM/ECF system.

Dated: Buffalo, New York  
December 2, 2022

LETITIA JAMES  
Attorney General of the State of New York  
Attorneys for Defendant Nigrelli

BY:

s/ Ryan L. Belka

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A

1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF NEW YORK

3 -----  
4 **BRETT CHRISTIAN, FIREARMS POLICY COALITION,**  
5 **INC., and SECOND AMENDMENT FOUNDATION,**

6 Plaintiffs,

7 -vs- Civil Action No. 22-cv-00695 (JLS)

8 **STEVEN A. NIGRELLI, in his official capacity as**  
9 **Superintendent of the New York State Police,**  
10 **and JOHN J. FLYNN, in his official capacity as**  
11 **District Attorney for the County of Erie,**

12 Defendants.  
13 -----

14 Examination Before Trial of **BRETT**  
15 **CHRISTIAN**, held before Brooklyn Morton, Notary  
16 Public, at Phillips Lytle, LLP, One Canalside,  
17 125 Main Street, Buffalo, New York, on November  
18 16th, 2022, commencing at 1:00 p.m. and ending  
19 at 5:00 p.m., pursuant to notice.  
20  
21  
22  
23  
24  
25

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**BY: NICOLAS J. ROTSKO, ESQ.**  
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APPEARING FOR THE DEFENDANTS:

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—BRETT CHRISTIAN - 11/16/2022—

1 Q. Do you have any reason to believe that your  
2 membership lapsed with regard to the Second  
3 Amendment between the years 2013 and  
4 August 2022?

5 A. I don't believe so.

6 Q. In your mind if there is a lapse in membership  
7 in either of these two organizations, it was  
8 due to ineffective mail carrying?

9 A. Correct.

10 Q. What is your reasoning to believe that there's  
11 a possibility of ineffective mail carrying  
12 between the years 2013 and August 2022?

13 A. I have lived at different addresses throughout  
14 the time.

15 Q. That's it?

16 A. Yes.

17 Q. Okay. As it relates to the sections of the  
18 CCIA that you have challenged related to  
19 private property, have you been arrested under  
20 that provision?

21 A. As of currently today, I have not been  
22 arrested.

23 Q. Have you been approached by law enforcement to  
24 arrest you for violations of the CCIA  
25 regarding the sections on private property?

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—BRETT CHRISTIAN - 11/16/2022—

1 A. As of today, I have not.

2 Q. Have you been arrested related to the sections  
3 relating to New York State Parks that you have  
4 challenged under the CCIA?

5 A. As of today, I have not.

6 Q. Have you been approached by law enforcement to  
7 enforce the New York State Parks provisions of  
8 the CCIA?

9 A. As of today, I have not.

10 Q. Have you been arrested related to the public  
11 transportation sections of the CCIA that you  
12 have challenged in this lawsuit?

13 A. As of today, I have not.

14 Q. And have you been approached by law  
15 enforcement regarding the public  
16 transportation sections of the CCIA that you  
17 have challenged in this lawsuit?

18 A. As of today, I have not.

19 Q. When you say "as of today," you mean from the  
20 beginning of the world until today, correct?

21 A. That's correct. I do not have a crystal ball.  
22 I don't know what tomorrow may bring and I do  
23 not wish to guess at the future.

24 Q. All right. Do you recall the testimony about  
25 reviewing the words in your declaration that

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—BRETT CHRISTIAN - 11/16/2022—

1 granted not a lot of people know it still  
2 exists, going from the suburbs to downtown,  
3 being able to carry my firearm with me  
4 legally. I no longer can do that based upon  
5 what's written in black and white in the New  
6 York State Penal Code.

7 Q. How would you travel from the suburbs downtown  
8 using public transportation?

9 A. It would primarily be one of the first three  
10 stations. There's either University Station,  
11 there is LaSalle and then Amherst Street  
12 Station. And then driving, parking somewhere  
13 nearby, walking in, paying the 4 or 5 bucks  
14 for a round trip ticket and then riding it all  
15 the way down to it ends right at Canalside at  
16 the arena.

17 Q. What kind of car do you own?

18 A. Currently, I own a 2023 Honda HR-V.

19 Q. Is that your daily form of transport?

20 A. Yes.

21 Q. And you can drive your 2023 Honda HR-V  
22 downtown if you choose, correct?

23 A. Yes.

24 Q. Do you own any other cars?

25 A. No, I do not.

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—BRETT CHRISTIAN - 11/16/2022—

1 Q. Okay. And the 2014 Buick Regal GS, was that  
2 your daily transport at that time?

3 A. Yes.

4 Q. And could the 2014 Buick Regal GS drive  
5 downtown?

6 A. Yes.

7 Q. Okay. When you had the 2017 Buick LaCrosse,  
8 was that your daily transport?

9 A. That would be correct.

10 Q. And could the 2017 Buick LaCrosse travel  
11 downtown?

12 A. That would be correct.

13 Q. Okay. And when you had the 2020 Honda Accord,  
14 was that your daily transport?

15 A. Yes.

16 Q. And could the 2020 Honda Accord travel  
17 downtown?

18 A. Mechanically, yes. However, the theft of the  
19 wheels that come equipped on the model I had  
20 is -- the rate of theft is obscene to the  
21 wheels and that car I tended to not want to  
22 drive as much downtown because based upon  
23 experiences at my job, that there would be a  
24 great likelihood I would find it up on blocks  
25 as we have had many occurrences at work.

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—BRETT CHRISTIAN - 11/16/2022—

1 Q. Where is your job?

2 A. Currently, it is at Ray Laks Honda in Orchard  
3 Park.

4 Q. How do you spell Ray Laks?

5 A. R-A-Y, space, L-A-K-S.

6 Q. And were the tires -- strike that.

7 What part of the 2020 Honda Accord was  
8 often stolen pursuant to anecdotes from your  
9 work?

10 A. In the last year we have had almost \$40,000 of  
11 damage done to vehicles because the model I  
12 had, the sport model that had 19-inch very  
13 attractive low profile sporty wheels, it is  
14 among the most stolen wheels in the country.  
15 In one year it was almost \$40,000 of wheels  
16 going missing due to theft.

17 Q. And did you ever have the wheels on your 2020  
18 Honda Accord stolen?

19 A. I did not because I would be very cautious  
20 about where I took the car and where I would  
21 park the car because of that reason.

22 Q. Regardless, the 2020 Honda Accord could get  
23 you downtown if you so chose?

24 A. Mechanically it could, yes.

25 Q. You mentioned that there are three locations

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—BRETT CHRISTIAN - 11/16/2022—

1           that the discussion about the ticket is  
2           accurate.

3           MR. BELKA: I accept. Thanks for  
4           creating an accommodation because it's unusual.

5           MR. ROTSKO: I can't figure out how to  
6           get that up on WebEx.

7

8           BY MR. BELKA:

9           Q. An NFTA Light Rail ticket has been placed in  
10          front of you. It's Exhibit 1 to your  
11          deposition. Do you see it?

12          A. I do.

13          Q. What's the date on that Light Rail ticket?

14          A. It was this past Sunday, the 13th.

15          Q. You are downtown today. You didn't take the  
16          Light Rail; is that right?

17          A. Correct.

18          Q. Okay. What car did you drive to get downtown  
19          today?

20          A. My 2023 Honda HR-V.

21          Q. Do you have a gun on you?

22          A. I do not.

23          Q. Why not?

24          A. The CCIA prevents me from doing so.

25          Q. Is that because Phillips Lytle prevented you

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—BRETT CHRISTIAN - 11/16/2022—

1 from bringing a concealed weapon onto their  
2 property?

3 A. I was unable to bring one with me on person  
4 because I have never been in this building  
5 before and I don't know what signs are posted  
6 on the property. And if I brought it with me,  
7 I would have already entered the property  
8 before I would see the signs and, thus, I  
9 would have broken the law. So without having  
10 that definitive knowledge of it as explicitly  
11 stated on a sign that it is allowed, I chose  
12 to leave it at home.

13 Q. These are your lawyers. You could have called  
14 ahead and asked what their concealed carry  
15 policy is, correct?

16 A. Correct.

17 Q. Do you own a phone?

18 A. I do.

19 Q. Do you know how to use it?

20 A. Yes.

21 Q. Do you think you could have used your phone to  
22 acquire that information from your lawyers?

23 A. I am unsure because I don't know who the  
24 property owner is and the way that it reads, I  
25 would have to first figure out who the

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1 property owner is. And with the timeframe of  
2 I did not know weeks or months in advance of  
3 the exact location, I wasn't able to in time  
4 determine that.

5 Q. When did you first learn about this  
6 deposition?

7 A. I learned that it may be a thing that would  
8 need to happen roughly, approximately a couple  
9 weeks ago. However, the exact date, time,  
10 this is the address at this time, be here,  
11 that was -- the address was provided this  
12 morning to me. The time was provided to me on  
13 Monday.

14 Q. Have you ever called your lawyers -- this has  
15 nothing to do with attorney-client.

16 Have you ever called your lawyers to ask  
17 them a question?

18 A. Yes.

19 Q. Do you feel like you need permission to call  
20 your lawyers?

21 A. No, I do not.

22 Q. Could you have called your lawyers and asked  
23 the policy about concealed carry in the  
24 building you would have been entering today?

25 A. Yes. That could have been a possibility.

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—BRETT CHRISTIAN - 11/16/2022—

1 Q. And do you think your lawyers would have told  
2 you the correct information as to their policy  
3 on concealed carry today?

4 A. Yes. I believe they would have.

5 Q. As it relates to public transportation, you  
6 note that you take the NFTA Metro Rail, which  
7 I have referred to as the NFTA Light Rail,  
8 when traffic or events downtown made driving  
9 impractical. Do you recall that testimony?

10 A. Yes, I do.

11 Q. In your mind, when does traffic make driving  
12 downtown impractical?

13 A. Monday through Friday and when major events  
14 like Sabres games, Taste of Buffalo and events  
15 such as those are going on, traffic is quite  
16 heavy at those times.

17 Q. How do you know traffic is heavy on Monday  
18 through Friday during Sabres games?

19 A. I have previously been to Sabres games.  
20 Either work -- the company that I work for has  
21 provided tickets for events as well as through  
22 the week I have made trips down here to go to  
23 either the Erie County Clerks's Office for  
24 adding an amendment or removing an amendment  
25 to my permit or to stop in to ask

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1 clarification about questions I have to make  
2 sure I am doing things the proper way.

3 But between the 190 and the 33, it is --  
4 the 33 in the morning you want to get here  
5 before 6:00 a.m. because it gets very accident  
6 prone and then throughout the day by noon,  
7 1 o'clock, it starts to pick up quite a bit  
8 into the evening. Not discounting Buffalo, of  
9 course, weather events we may have.

10 Q. Prior to August 2022, how often would you ride  
11 the Buffalo Light Rail?

12 A. Approximately two to three times a month, if  
13 not more.

14 Q. Is the Buffalo Light Rail the only form of --  
15 strike that.

16 Is the Buffalo Light Rail the only form  
17 of public transportation that you regularly  
18 take?

19 A. That would be correct.

20 Q. Is it fair to say -- I am looking at Exhibit 1  
21 now. November 13th, 2022 was the last time  
22 you used the Buffalo Light Rail?

23 A. Correct.

24 Q. What event made it impractical to go downtown  
25 using your car on November 13th, 2022?

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—BRETT CHRISTIAN - 11/16/2022—

1 A. A combination of even with a Honda the price  
2 of gas as well as the convenience from  
3 University Station to Canalside, the last  
4 exit, is almost precisely 20 minutes. It's  
5 faster to do that than it is to drive, find a  
6 parking spot, pay for parking if it's through  
7 the week. Weekends sometimes things are free.  
8 It's simply a matter of this is faster and  
9 easier. I don't have to worry and deal with  
10 the hassle of it.

11 Q. Your affidavit -- strike that.

12 Your declaration says that you take the  
13 Buffalo Light Rail when traffic or events  
14 downtown make driving impractical, correct?

15 A. Correct.

16 Q. When you took the Buffalo Light Rail on  
17 November 13th, was that due to traffic or  
18 events downtown?

19 A. That was due to --

20 MR. ROTSKO: Objection. Asked and  
21 answered.

22 Q. You still have to answer.

23 A. An event in Orchard Park, not downtown.  
24 Everybody is on the thruway and the 33 headed  
25 to the Bills game around that time.

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—BRETT CHRISTIAN - 11/16/2022—

1 Q. And why do you feel -- strike that.

2 Why did you feel it necessary to cancel  
3 your trip to the Adirondack Park because of  
4 the CCIA?

5 A. To get to the Adirondacks it's approximately 5  
6 hours and 15 minutes of travel time, 6 hours  
7 and 15 minutes of travel time if you don't go  
8 the thruway. Sometimes the side roads are  
9 nice, slower pace, less traffic. So with the  
10 way the CCIA is, the way it is written in  
11 black and white which is what I believe to be  
12 the law, if I was to go on the trip, bring  
13 with me my pistol and I am carrying it because  
14 it is easier to keep it in a holster on your  
15 person, less likelihood of getting it stolen  
16 because you left it somewhere, I would have to  
17 know in advance every restaurant that I may  
18 decide to get food at or every gas station.  
19 And then if I ended up instead of bringing a  
20 sleeping bag and sleeping in the car as I  
21 sometimes do, if I went the route of this time  
22 I will get a hotel, knowing all the property  
23 owner's policies ahead to be compliant and  
24 legal, it -- too daunting, if you will.

25 Q. Your declaration to me implies that you

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—BRETT CHRISTIAN - 11/16/2022—

1           thought that the CCIA applied to the  
2           Adirondack Park. Was that your understanding  
3           at the time you signed your declaration?

4           A. When I signed it at the time, that was my full  
5           belief. However, New York State political  
6           leaders have said now that it doesn't apply,  
7           but I don't see anything in writing. So I am  
8           unsure of New York State Government's stance  
9           in that regard.

10          Q. You understand it has been represented in this  
11          lawsuit that the CCIA does not apply to  
12          Adirondack Park, right?

13          A. That's what I have heard. However, when I go  
14          to the Penal Code and I look it up, I haven't  
15          seen the legislature make any changes, make  
16          any addendums, amendments, corrections in that  
17          regard. And I have to believe the law  
18          enforcement has no legal obligation to protect  
19          me.

20                 Their duty is to enforce the law and  
21          catch criminals per the Supreme Court case  
22          that happened out of Ohio. I want to say  
23          Akron. I don't remember the exact name. I  
24          would have to look it up, but because of that  
25          I would have to believe any law enforcement

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1 professional whether they are New York State  
2 Park rangers, DEC, if they are New York State  
3 Police, local sheriff, local town, they would  
4 go by this is what's written as the law, this  
5 is, therefore, what we must enforce if someone  
6 is violating it.

7 Q. So at least as it relates to the Adirondack  
8 Park, the statement of political leaders on  
9 how the CCIA applies is not enough for you?

10 A. Correct. Let me add --

11 Q. No.

12 A. Okay. Sorry.

13 Q. Actually, sorry. You should be able to add.  
14 Go ahead. I didn't mean to cut you off.

15 A. If I were to go ahead and go there and carry  
16 and a law enforcement professional were to  
17 observe me and stop me and question me and  
18 find that I was carrying, I don't believe that  
19 they would find it a sufficient defense or  
20 justification to say, well, the Governor or  
21 the Attorney General of New York or the head  
22 of the State Police has said this --

23 Q. Right.

24 A. -- you know, in a TV interview. Much like  
25 people I know now that are going through the

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1       permitting process, the way the law is written  
2       it says everybody needs the new training  
3       requirement and other requirements. To have,  
4       again, politicians who are elected  
5       representatives and heads of various  
6       departments say, well, we only interpret that  
7       or we only mean it applies to downstate  
8       counties like Suffolk, Nassau, Westchester and  
9       the boroughs and New York City, again, I look  
10      at it and I tell people they can say what they  
11      want but what's actually written in the law,  
12      that's the standard you are held to and this  
13      is what it says currently.

14      Q. Right. So in the case of Adirondack Park,  
15      right, you would not be comforted by the  
16      statements of political leaders or the leader  
17      of the State Police that Adirondack Park is  
18      not -- that we are not going to enforce the  
19      CCIA in Adirondack Park, right?

20      A. Correct.

21      Q. What kind of plans did you make to go to  
22      Adirondack Park in the period of time around  
23      Thanksgiving 2022? What firm plans did you  
24      make?

25      A. I had firm plans, definitive plans. My plans

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—BRETT CHRISTIAN - 11/16/2022—

1 Q. Because you wouldn't work Sunday?

2 A. Sunday, correct.

3 Q. But either way you didn't make this trip  
4 despite political leaders and the  
5 representations that have been made in this  
6 case because that's not enough for you to be  
7 assured that the CCIA wouldn't be enforced in  
8 Adirondack Park?

9 A. Correct.

10 MR. BELKA: Okay. Let's take a break.  
11 Five minutes.

12  
13 (Recess was taken.)

14  
15 BY MR. BELKA:

16 Q. One of the paragraphs in your declaration  
17 mentions that you would sometimes walk in  
18 local parks. Do you recall that statement?

19 A. Yes.

20 Q. I mean, I will read it to you. "Carry my  
21 firearm for self-defense while walking in  
22 local parks or when hiking on trails in  
23 largely wooded and marshy areas a few times  
24 each month." Do you recall that?

25 A. Yes.

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—BRETT CHRISTIAN - 11/16/2022—

1 Q. Okay. Similar to failing to provide the dates  
2 on which you would have made your trip to the  
3 Adirondacks, you don't mention which local  
4 parks you would carry for in self-defense. Is  
5 that fair?

6 A. Yes.

7 Q. Okay. Can you tell me what local parks you  
8 are referring to in your declaration?

9 A. Yes. The primary ones, but not all of them,  
10 are Stiglmeier Park in Cheektowaga because of  
11 being close to where I live, parts of the  
12 Clarence Bike Path which are actually two  
13 trails running from Amherst off of Transit  
14 Road into Clarence. If you remember the bike  
15 path rapist, that's where that stuff happened.  
16 The other one would be there's a Shoreline  
17 Trail running from the north side of Buffalo  
18 where Sheridan Drive approximately hits the  
19 190 and it runs up through where -- or sorry,  
20 where Sheridan Drive hits the 290, sorry. And  
21 that runs from there up to -- or I am getting  
22 my roads confused. I am sorry.

23 The 190 goes around Buffalo. Where  
24 Sheridan Drive hits the 190 and it runs from  
25 there down to where the bridges going to Grand

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—BRETT CHRISTIAN - 11/16/2022—

1 Island are and there's a park and ride  
2 directly underneath the bridges. You go past  
3 the old power plant in that section. It's  
4 called the Shoreline Trail, I believe.

5 Q. What was the middle one that you mentioned?  
6 Parts of a trail path into Clarence, what's  
7 that one called?

8 A. There's two trails. They are both -- in  
9 laymen's term people in the area just call  
10 them the Clarence Bike Path, but they are two  
11 bike and hiking paved trails that run through  
12 the woods of that area.

13 Q. All right. I asked you to tell me what you  
14 meant by local parks in your declaration and  
15 you have identified Stiglmeier Park, the  
16 Clarence Bike Path, and the Shoreline Trail;  
17 is that correct?

18 A. Yes.

19 Q. All right. And understood that you qualified  
20 that to say primarily, were there any other  
21 local parks in your mind at the time you  
22 drafted your declaration, aside from  
23 Stiglmeier Park, the Clarence Bike Path and  
24 the Shoreline Trail?

25 A. There are other parks I have been to. Those

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1           being the primary most enjoyed. When I have  
2           gone to other parks, I have not kept a running  
3           list because I did not know I would need it in  
4           the future. So I cannot be certain of the  
5           exact name or like the date and time without  
6           speculating.

7           Q. I mean, do you know the date and time on which  
8           you have been to Stiglmeier Park?

9           A. Stiglmeier Park, the last time I went was the  
10          last Wednesday in August.

11          Q. And what about before the last Wednesday in  
12          August, when was the last time you were at  
13          Stiglmeier Park?

14          A. That would have been I went Sunday morning,  
15          the first Sunday in August.

16          Q. And before that, when was the last time you  
17          were at Stiglmeier Park?

18          A. Before that, would have been the end of July.

19          Q. And is the end of July a specific date or  
20          time?

21          A. I would have to go back through my calendar.

22          Q. Right. My point is, I just want to know what  
23          you mean by local parks in your declaration.  
24          And you have identified Stiglmeier Park, you  
25          have identified the Clarence Bike Path and the

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1 Shoreline Trail primarily. And then you note  
2 other parks, but that you haven't -- you might  
3 not know their names?

4 A. Correct.

5 Q. Okay. But the reasoning you have for not  
6 providing their names is that you didn't know  
7 that you would be able to -- one second. Be  
8 required to come up with a date and time. I  
9 am just saying that that's consistent for the  
10 other parks as well?

11 A. Correct.

12 Q. Okay. So is it fair to read the words "local  
13 parks" in your declaration in paragraph 7 as  
14 Stiglmeier Park, the Clarence Bike Path, and  
15 the Shoreline Trail?

16 A. Yes.

17 Q. You also note that there were hiking trails  
18 and largely wooded and marshy areas a few  
19 times each month?

20 A. Yes.

21 Q. Okay. The hiking trails that you are  
22 referring to, are they different than  
23 Stiglmeier Park, the Clarence Bike Path, and  
24 the Shoreline Trail?

25 A. Those previously mentioned trails are some of

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1           it, but there are some outside of Erie County  
2           in the Southern Tier.

3           Q. Okay. Aside from the ones that we have  
4           already mentioned -- I am just trying to get  
5           the world of local parks and hiking trails.  
6           Aside from the three that we have mentioned,  
7           what else are you referring to?

8           A. There's one other primary one. That would be  
9           the Harris Hill State Forest area down near  
10          Gerry, New York.

11          Q. How do you spell Gerry?

12          A. G, as in George, E-R-R-Y. That's towards like  
13          Chautauqua way.

14          Q. And when is the last time you were at the  
15          hiking trails in Harris Hill?

16          A. Would have been the beginning of June around  
17          Father's Day weekend.

18          Q. And what gun were you carrying?

19          A. That would have been my Ruger SP101 and 357  
20          Magnum.

21          Q. Both guns?

22          A. That's all one gun.

23                   MR. BELKA: Oh, I deserve that. Can you  
24                   read me back again what the gun was?

25

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